

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

NO. 2:15-cv-00042-BO

RED WOLF COALITION, DEFENDERS
OF WILDLIFE, AND ANIMAL WELFARE
INSTITUTE,

Plaintiffs,

v.

THE UNITED STATES FISH AND
WILDLIFE SERVICE; MARGARET
EVERSON, in her official capacity as
Principal Deputy Director Exercising the
Authority of the Director of the United States
Fish and Wildlife Service; and LEOPOLDO
MIRANDA, in his official capacity as
Regional Director of the United States Fish
and Wildlife Service Southeast Region,¹

Defendants.

**MOTION FOR ATTORNEYS' FEES
AND EXPENSES**

**[Fed. R. Civ. P. 7(b) and 54(d)(2)]
[Local Civil Rule 7.1]**

Pursuant to Rules 7(b) and 54(d)(2) of the Federal Rules of Civil Procedure, and Local Civil Rule 7.1, Plaintiffs Red Wolf Coalition, Defenders of Wildlife, and Animal Welfare Institute ("Plaintiffs") hereby move this Court for an award of attorneys' fees and expenses totaling \$941,307.59 pursuant to the Endangered Species Act ("ESA"), 16 U.S.C. § 1540(g)(4), and the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d).

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Margaret Everson, Principal Deputy Director Exercising Authority of the Director of the U.S. Fish and Wildlife Service, is substituted for Jim Kurth, former Acting Director, and Leopoldo Miranda, Regional Director of the U.S. Fish and Wildlife Service Southeast Region, is substituted for Mike Oetker, former Acting Regional Director.

In November 2015, Plaintiffs brought six claims against Defendants United States Fish and Wildlife Service (“USFWS”), Principal Deputy Director Exercising the Authority of the Director of the USFWS Margaret Everson, and Southeast Regional Director of the USFWS Leopoldo Miranda (“Defendants”), alleging violations of the ESA and National Environmental Policy Act (“NEPA”) [DE 1]. On November 4, 2018, this Court granted summary judgment for Plaintiffs on all claims except for their Third Claim, which was mooted by Defendants’ long overdue publication of its red wolf status review on April 23, 2018, in response to Plaintiffs’ litigation. *Red Wolf Coal. v. U.S. Fish & Wildlife Serv.*, No. 2:15-CV-42-BO, 2018 WL 5796262 (E.D.N.C. Nov. 4, 2018) [DE 101]. On January 17, 2019, this Court granted Plaintiffs’ Consent Motion for Combined Attorneys’ Fees Petition and Extension of Time to Request Attorneys’ Fees Under the Endangered Species Act [DE 104], setting February 4, 2019, as Plaintiffs’ deadline for petitioning the Court for fees under both the ESA and EAJA.

As detailed in the attached memorandum and supporting materials, Plaintiffs are entitled to recover their reasonable attorneys’ fees and expenses for their complete success in this fact-intensive three-year litigation. Plaintiffs respectfully request an award of attorneys’ fees in the amount of \$882,720.00, and expenses in the amount of \$58,587.59, for a total award of \$941,307.59. As represented in their January 15, 2019, Motion, Plaintiffs have also reached out to Defendants in an attempt to resolve this matter without Court intervention [DE 103-4]. The parties are discussing this possibility and will update the Court on their progress. Plaintiffs submit this Motion in the interim to preserve their rights.

Plaintiffs’ requested award of attorneys’ fees and expenses does not at this time include compensation for hours expended developing this Motion for Attorneys’ Fees and Expenses, or its supporting materials. Plaintiffs reserve the right to seek such attorneys’ fees either as part of

settlement discussions with Defendants, or from this Court. Any request for attorneys' fees or expenses related to work on this Motion or attempted settlement of this issue with Defendants will be included with Plaintiffs' Reply in Support of this Motion, should one be filed.

Submitted, this the 4th day of February, 2019.

/s/ Sierra B. Weaver
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CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2019, I electronically filed the foregoing **MOTION FOR ATTORNEYS' FEES AND EXPENSES** with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing to counsel for Defendants.

This the 4th day of February, 2019.

/s/ Sierra B. Weaver
Sierra B. Weaver